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EXAMINER

Jarrett, Scott L

ART UNIT PAPER NUMBER

3623

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/803,329

Applicant(s)

STAVRULOV, IGOR
ANATOLIEVICH

Examiner

Scott L. Jarrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/7/2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Abstract

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

2. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The

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disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it makes reference to "The invention" and contains several grammatical errors. Correction is required. See MPEP § 608.01(b).

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The title of the invention implies varying the packaging of only homogenous products however the nature of the products as claimed could be interpreted to be applicable to any type of product (homogeneous, heterogeneous, etc.).

The following title is suggested: Method for customizing consumer product packaging.

4. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing

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application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

5. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

The attempt to incorporate subject matter into this application by reference to U.S. Patents, Foreign Patents and a plurality of other prior art references is improper (Specification; Page 3, Line 11; Page, 4 Lines 1-6).

Appropriate correction required.

Claim Objections

6. Claims 4, 6 and 18-20 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Regarding Claims 4 and 6 examiner suggests applicant amend claims by amending claims 4a and 6a to read "~~using the method of claim 1 to~~ producing a group of individual packages; and."

Regarding Claims 18-20 examiner suggests applicant amend claims by fully including the steps of the parent claim.

7. Claims 8, 9 and 12 are objected to because of the following informalities: claims 8a), 9a) and 12a) are missing a word/phrase, examiner interpreted applicant to intend the claim to read "selecting a period of time such as a." Appropriate correction is required.

Examiner reminds applicant that under the second paragraph of 35 USC 112 the phrase "such as" renders a claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

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Further regarding Claim 8, Claim 8b) is missing a word/phrase, examiner interpreted applicant to intend the claim to read "which becomes the size." Appropriate correction is required.

Further regarding Claim 12, Claim 12) is missing a word/phrase, examiner interpreted applicant to intend the claim to read "it is statistically likely." Appropriate correction is required.

8. Examiner suggests applicant thoroughly review the specification and claims for any additional grammatical or spelling errors.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 1, 9, 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding Claim 1 the disclosure fails to state or teach one of ordinary skill in the art the best mode (by hand, computer or like device) for selecting a size of a group of packages that a consumer will purchase or use without the consumer seeing the same image repeated as claimed. Without this disclosure one skilled in the art would be unable to practice the invention without undue experimentation. Further the disclosure fails to state or teach one of ordinary skill in the art the best mode (by hand, computer or like device) for configuring a system or method to ensure that the selected size of a group of packages that a consumer will purchase or use **without the consumer seeing the same image repeated** as claimed.

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Regarding Claims 9 and 12 the disclosure fails to state or teach one of ordinary skill in the art the best mode (by hand, computer or like device) for selecting a time for which it is desired that the consumer not see the same image repeated as claimed. Without this disclosure one skilled in the art would be unable to practice the invention without undue experimentation. Further the disclosure fails to state or teach one of ordinary skill in the art the best mode (by hand, computer or like device) for configuring a system or method to ensure that the selected time period prevents the consumer from seeing the same image repeated as claimed.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1, 3-9, 11, 12 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite and failing to point out and distinctly claim the subject matter which the applicant regards as the invention.

Regarding Claims 1, 9 and 12 the disclosure does not clearly define the phrase "statistically likely to a degree acceptable to the user". Statistically likely to a degree acceptable to the user as claimed encompasses a wide variety of values and meanings thereby making the term "statistically likely to a degree acceptable to the user" as claimed vague and indefinite. The examiner interpreted statistically likely to a degree acceptable to the user to mean any value/degree that might be acceptable to any user.

Regarding Claims 3, 11, 16 and 17 the disclosure does not clearly define the phrase "periodically." Periodically as claimed can be interpreted to mean any of a plurality of time periods including but not limited to: daily, weekly, monthly, yearly or the like thereby making the term "periodically" as claimed vague and indefinite. The examiner interpreted periodically to mean any period of time.

Regarding Claims 4-7 and 17 the disclosure does not clearly define the phrase "likely". Likely as claimed can comprise a plurality of definitions thereby making the term "likely" as claimed vague and indefinite.

Regarding Claims 5, 7 and 17 the disclosure does not clearly define the phrase "form a random image." It is not clear if a "new" image, text, message picture or the like is formed by the combination (assembling, compilation) of two or more individual packages, each with their own distinct image, or if the random order in which items are packaged presents a visual representation of randomness or both.

Regarding Claims 9 and 12 (9f and 12h) the disclosure does not clearly define the phrase "sufficient". Sufficient as claimed can comprise a plurality of definitions thereby making the term "sufficient" as claimed vague and indefinite. The examiner interpreted sufficient to mean any value/number.

Claim Rejections - 35 USC § 101

1. Claims 1-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

Regarding Claims 1-17, claims 1-17 only recite an abstract idea. The recited method for attracting, increasing, or retaining customer interest and loyalty in products of a particular business by varying images appearing on packages of products does not apply, involve, or use the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. The claimed invention, as a whole, is not within the technological art as explained above claims 1-17 are deemed to be directed to non-statutory subject matter.

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Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. Regarding Claim 1, the claimed invention merely selects a size of a group of packages, determines the size of a group of images, selects a plurality of images and prepares packages and therefore does not produce a tangible result. The claimed invention, as a whole, is not within the technological art as explained above claims 1-17 are deemed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller, Irene Elma, U.S. Patent No. 3,770,278.

Regarding Claims 1 and 18, Mueller teaches a cookie game comprising:

- selecting a size of a group of fortune cookies (packages) that the consumer will purchase or use without the consumer seeing the same written information (image) repeated (a predetermined plurality of fortune cookies each cookie having a strip of paper upon which different information is contained; Claims 1, 3, 4 and 5; Figure 1; as per applicants own admission an image may include pictures, text, and the like; Specification, Page 9, Lines 8-14)

- determining the size of a group of different written information to be placed in the fortune cookies, the size of the group of written information being equal to the number of fortune cookies in the cookie game (a function of the size of the group of packages; Figures 1 and 5);

- selecting different written information (portion of text, interrelated information, segment of written composition) equal in number to size of the group of different written

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information (Figures 3 and 5; Abstract; Column 1, Lines 25-27; Column 2, Lines 8-22; Column 3, Lines 5-10; Claims 4-6);

- preparing the group of fortune cookies (packages) by placing one of the written information segments into a fortune cookie from the group of different information segments and continuing until every written information segment has be placed into one fortune cookie, such that each group of different written information segments appears at least once in a fortune cookie and no fortune cookie contains more than one written information segments from the group of different written information (Column 2, Lines 40-45; Figures 1-5; Claims 1 and 5);

- ensuring that the written descriptions are statistically likely to a degree acceptable to the user (zero probably as each of the fortune cookies in the cookie game are distinct segments of the written information) that the written information contained in the fortune cookie are different;

- the information segments are interrelated and packaged as a set such that once the game is played (purchased and used) the information segments combine to form a new/complete written composition(Abstract; Figures 4 and 5; Column 2, Lines 15-17; Column 1, Lines 21-41); and

- that the game utilizes variety of sources for obtaining and varying the written information placed into the fortune cookies (Column 3, Lines 5-10).

Mueller further teaches that it is well known in the art that when cookies are packaged they are selected at random and that when a sufficiently large number of

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different fortunes are used the chances of duplicating fortunes is minimized (consumers seeing the same image twice; Column 2, Lines 1-8).

Mueller does not teach that the written information (images) is placed on the packages.

As per applicants own admission the placing of a plurality of information (text, designs, instructions, information, symbolics, etc.) on product packages is old and very well known in the art (Specification, Page 2, Lines 1-5; Page 3, Lines 21-26) enabling businesses to distinguish their products through the use of unique advertising, marketing and branding executions.

While the applicant lists a plurality of examples wherein companies products have placed on them a plurality of information there are several additional examples that further illustrate the customization of a product's visual representation (color, text, information, prizes, awards, advertisements, texture, shape, size, etc.) for the purposes of attracting, increasing or retaining customer interest and loyalty of products of a particular business and these examples include but are not limited to:

- fortune cookies containing "winning" lottery number and further wherein the fortune cookies are distributed in such a way as to ensure the consumer does not receive the same lottery number more than once;

- milk cartons for school lunches that include a variety of jokes, cartoons, interesting facts, public service announcements, missing persons, and the like;

- Bazooka™ bubble gum wherein a plurality of different comics and/or messages are contained in a pre-determined number of products;
- collectible trading cards (tobacco cards, baseball cards, etc.) wherein consumers must collect a plurality of cards over a period of time in order to be statistically likely to complete a desired set of the card;
- CrackerJack® wherein every box contains a "prize"; and
- cereal box promotions and giveaways.

It would have been obvious to one skilled in the art at the time of the invention that the cookie game of Mueller wherein fortune cookies contain distinct and interrelated written information segments would have benefited from varying the external representation of the fortune cookie in order to further entice consumers to purchase and use the cookie game product.

Regarding Claim 2 Mueller teaches the production/assembly of more than one group of fortune cookies and cookie games at a time (Column 2, Lines 39-46).

Regarding Claim 3 Mueller does not expressly teach that the written information contained in the cookie games is changed periodically.

Official notice is taken that the cookie game as taught by Mueller would have been uninteresting and useless without the ability to vary the written information

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between cookie games, in essence making each cookie game identical. Without any variety of the written information contained within each cookie game a consumer opening more than one cookie game would have discovered the exact same written information thereby relieving the game of any of its entertainment value or its ability to maintain consumer interest.

It would have been obvious to one skilled in the art at the time of the invention that the cookie game as taught by Mueller would have inherently included a means for varying the written information contained in a plurality of cookie games thereby insuring the game's ability to maintain customer interest in the product.

Regarding Claims 4-7 Mueller teaches producing a group of individual fortune cookies (packages) and assembling a plurality of the fortune cookies into a cookie game box (Figure 1, Element 10; Column 2, Lines 38-46). Further Mueller teaches placing at least two and at least three fortune cookies (individual packages) into a fortune cookie game box (consumer package) and that the fortune cookies are placed into the cookie game box at random (Column 2, Lines 20-21).

Mueller does not expressly teach the assembling of a carton, box or other package for containing a plurality of cookie games. However as per the applicant's own admission the use of cartons, boxes, and the like for assembling consumer packages

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(products, items, etc.) for distribution is old and very well known in the art (Specification, Page 2, Lines 5-9; Page 3, Lines 1-20).

It would have been obvious to one skilled in the art at the time of the invention that the cookie game as taught by Mueller would have utilized any number of the plurality of systems and methods for assembling consumer products in to packages, boxes, cartons and the like these systems providing a convenient means for shipping (transporting) the cookie games to their final retail or other locations.

Regarding Claim 8 Mueller does not expressly teach that the size of the group of packages is based upon a period of time or the number of packaged purchased or used by the consumer.

Official notice is taken that effective frequency is old and very well known in the art wherein the theory of effective frequency proposes that an advertisement (image, text, message, etc.) needs to be seen by a consumer a certain number of times in order for effective communication to take place, and therefore for the advertising to elicit the desired consumer response. The desired consumer response may range from gaining attention, through building awareness and understanding, to prompting direct consumer action. The effective frequency level for a particular campaign will be determined by an analysis of a number of factors including, a brand's purchase and usage cycle, brand

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share, competitive activity, consumer attitudes towards the brand, creative impact and the medium to be used.

It would have been obvious to one skilled in the art at the time of the invention that the cookie game of Mueller would have benefited from employing the old and very well known techniques of effective frequency in determining the size of the group of fortune cookies and cookie games necessary to insure that the consumer would not see the same written information (game) more than once during a specified period of time thereby ensuring the games ability to maintain its entertainment value.

4. Claims 9-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jennel, Per, U.S. Patent No. 6,135,654 in view of Merriman et al., U.S. Patent No. 5,948,061.

Regarding Claims 9, 12 and 19-20 Jennel teaches a system for customizing the packaging of consumer products. More specifically Jennel teaches a system for printing digital graphic images directly onto the packaging material of a product or package (Abstract; Figures 1 and 2; Column 2, Lines 30-34; Column 5, Lines 55-65) wherein the system has the ability to print a plurality of digital images thereby enabling each package to have a different label, image, text, picture, or the like (Column 4, Lines 16-25; Column 5, Lines 50-54; Figures 2- 5, Elements 26a, 36a and 26b, 36b; Claims 1, 7 and 14) and provides users with the ability to immediately produce custom product

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labels from a digital image captured remotely or produce a series of custom product labels to illustrate an ongoing contemporary issues (Column 4, Lines 16-25 and 38-45).

Jennel further teaches that the custom digital printing system:

- includes full color, custom images that are created and stored on a computer (electronically) utilizing well-known electronic pre-press methods and systems (Column 2, Lines 48-51; Column 3, Lines 8-15; Figures 1, 2 and 8);
- images are capable of being transmitted electronically over a to a remote station/site (Figures 1-3, 6 and 6A, Element 28; Column 3, Lines 8-10; Column 4, Lines 11-16; Column 5, Lines 34-35);
- is part of an overall production/assembly line (material handling, conveyor system, filling station and material processing; Column 4, Lines 47-555; Column 5, lines 13-17; Elements 24, 40, 42, 46, and 62, Figures 6, 6A and 7); and
- that the system has a variety of applications in the packaging industry including but not limited to on-demand printing (Column 5, lines 65-68; Column 6, Lines 1-13).

Jennel does not teach a method for ensuring a consumer does not see the same packaging (image, label, etc.) repeated or that the size of the group of packages is based upon a period of time or the number of packages purchased or used by the consumer. Further Jennel does not expressly teach the assembling of a carton, box or other package for containing a plurality of individual products.

Merrimann et al. teach a system for ensuring a customer does not see the same advertisement (image, text, ad banner, message, or the like) repeated and that the number of advertisement presented to the consumer is based upon a time period and the number of advertisements viewed by the consumer. More specifically Merrimann et al. teach a system for targeted advertising utilizing a plurality of well-known and well-understood methods and metrics for selecting, presenting and measuring a targeted advertisement to a consumer over a computer network (Abstract; Column 1, Lines 63-68; Column 2, Lines 1-4 and 26-45; Figures 1-3A and 3B).

Merrimann et al. further teach that the system for delivering, targeting and measure advertising comprises:

- a plurality of advertisements digital embodiments including but not limited to images, video and audio (Column 3, Lines 13, 40-41; Column 6, Lines 1-3) and that the advertisements are electronically stored, created and transmitted over a computer network (Figure 1; Abstract); and

- varying the advertisement presented based upon a period of time in which the consumer should not see an image repeated or more specifically the selection, presentation and tracking of advertisements based upon the frequency of exposure of an advertisement(s) to a particular consumer (Column 1, Lines 65-68; Column 2, Lines 30-36; Column 5, Lines 55-62) and further wherein the frequency of exposure is determined by a plurality of variables (statistics) including but not limited to start date, end date, how often a consumer has seen an advertisement; the total number of people

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who have viewed the advertisement, satisfaction index, etc. (Column 4, Lines 38-43 and 47-64; Column 6, Lines 27-59; Column 7, Lines 3-14; Figures 3A-3C).

Merrimann et al. further teach that it is very well known that an advertisement that is repeated too often will eventually be ignored by consumers therefore advertisers typically wish to eliminate duplicate of advertisements and reach as many consumers in the advertisers target group as possible (Column 1, Lines 23-27 and 54-56).

It would have been obvious to one skilled in the art at the time of the invention that the system for customizing consumer packages as taught by Jennel would have benefited from the ability to ensure a consumer did not see an product label (image) repeated by utilizing the system for delivering, targeting and measure advertising in view of the teachings of Merrimann et al. thereby insuring that consumers would not be presented an undue number of identical images (product labels, advertisements or the like) an over abundance of which would be ignored by consumers thereby reducing the effectiveness and reach of the advertisement (Column 1, Lines 23-27 and 54-56).

As per the applicant's own admission the use of cartons, boxes, and the like for assembling consumer packages (products, items, etc.) for distribution is old and very well known in the art (Specification, Page 2, Lines 5-9; Page 3, Lines 1-20).

Accordingly, it would have been obvious to one skilled in the art at the time of the invention that the system for customizing consumer packages, wherein the system is part of a production/assembly lines as discussed above, as taught by Jennel would

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have utilized any number of the plurality of systems and methods for assembling consumer products in to packages, boxes, cartons and the like these systems providing a convenient means for shipping (transporting) the cookie games to their final retail or other locations.

Regarding Claims 10 and 13 -15 Jennel teaches producing more than one consumer package (bottle) at a time (Figures 6, 6A and 7, Element 40; Column 5, Lines 13-16), that the custom printing system is part of a production/assembly line and is capable of printing distinct images on each and every package as discussed above.

Jennel does not expressly teach placing the consumer package into a carton.

As per the applicant's own admission the use of cartons, boxes, and the like for assembling consumer packages (products, items, etc.) for distribution is old and very well known in the art (Specification, Page 2, Lines 5-9; Page 3, Lines 1-20).

Accordingly, it would have been obvious to one skilled in the art at the time of the invention that the system for customizing consumer packages, wherein the system is part of a production/assembly lines as discussed above, as taught by Jennel would have utilized any number of the plurality of systems and methods for assembling consumer products in to packages, boxes, cartons and the like these systems providing a convenient means for shipping (transporting) the cookie games to their final retail or other locations.

Regarding Claims 11, 16 and 17 Jennel teaches that the product labels can be changed/different for each and every product label as discussed above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Pierce et al., U.S. Patent No. 4,797,291, teach a method and system for producing a food item containing an article such as a strip of paper upon which may be imprinted with a design, puzzle, picture, text or the like.

- Breger, Guy, U.S. Patent No. 4,972,329, teaches a system for creating images of advertising documents (labels, wrappers, etc.) wherein images are created utilizing one picture or a series of pictures.

- Mikhail, Ameer G., U.S. Patent No. 5,005,698, teaches individually wrapped cigarettes in a cigarette pack or box.

- Graushar, William T., U.S. Patent No. 5,025,610, teaches a customized packaging system for customizing the packaging of publications for certain subscribers. Graushar further teaches that customized printing (signatures) and advertising are well known in the art.

- Kim, Ki L., U.S. Patent No. 5,031,645, teaches a method for packaging and distributing premium packaging for cigarettes wherein prizes, premiums, giveaways, and the like are contained.

- Bunch, Earnest B., U.S. Patent No. 5,297,488, teaches a system for printing images (logos, company names or other data) on certain randomly selected pages.

- Howes, James P., U.S. Patent No. 5,806,852, teaches a method for randomly distributing prize awards in a plurality of consumable product as a means for promoting/advertising a product. Howes further teaches that a unique, distinguishing feature or characteristics is imparted on the product comprises one or more selected from the group consisting of indicia, icons, colors, messages, shapes, sizes, flavors and taste and that consumers are able to win prize awards by collecting indicia-bearing products.

- Howes, James P., U.S. Patent No. 5,785,171, teaches a system for delivering secretly hidden prize awards distributed, randomly selected to attain a desired ratio, to consumers as a means for advertising/promoting the product. Howes further teaches that the prize(s) maybe contained in every container or selected containers and that prizes maybe won by collecting multi-part coupon/ticket thereby encouraging multiple visits to the business.

- Brochhausen, James M. U.S. Patent No. 6,206,190, teaches a method for creating a collectible card and package wherein the can contains a plurality of collectible cards each card having a distinctive image. Brochhausen further teaches that the cards maybe selected at random such that an underdetermined number of packages may be collected before a particular card and associated image are collected resulting in increased value of the card and increased interest of collectors.

- Cannon, Mark E., U.S. Patent No. 6,286,006, teaches a decision support system for analyzing data for advertising optimization. Cannon further teaches that the targeted marketing of products/services and the metrics utilized to optimize the targeted marketing are well known and that metrics such as effective frequency, frequency exposure, exposure recency, impressions, ratings, and the like are used to insure the maximum effect of an advertising campaign.

- Witkowski, Daniel, U.S. Patent 6,594,927, teaches a method for customizing the packaging of consumer products.

- McDonald, Collin, Advertising Reach and Frequency: Maximizing Advertising frequency and their effects on the effectiveness of product/service advertising.

McDonald further teaches the determination of an effective frequency.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (703) 306-5679. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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SJ
1/20/2005



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